



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

EC-2002-030 5/8/98
II-A 087

CERTIFIED MAIL 334 935 684
RETURN RECEIPT REQUESTED

Robert Kec, President
Western States Petroleum, Inc.
450 S. 15th Ave.
Phoenix, AZ 85007

OFFICE OF
ENFORCEMENT AND
COMPLIANCE ASSURANCE

Re: File No. AED/MSEB - 4820

NOTICE OF VIOLATION OF THE CLEAN AIR ACT

Dear Mr. Kec:

On September 4, 1997, a reformulated gasoline survey inspection was conducted at Baja Shell located at 10180 North McDowell Road, Fountain Hills, Arizona. The inspection was conducted to determine compliance with section 211(k) of the Clean Air Act ("Act"), 42 U.S.C. § 7545(k), and the regulations issued thereunder (40 C.F.R. part 80, subpart D). Where inappropriate fuels are used in internal combustion engines, the emissions of harmful gases can increase significantly. Notwithstanding improvements in vehicle emission controls, emissions from motor vehicles continue to make up a very large portion of all air pollution. Congress has established a program of improvement and regulation of fuels to protect our air quality from unnecessary pollution associated with the misfueling of vehicles.

The applicable regulations provide that no person may manufacture and sell or distribute, offer for sale or distribution, dispense, supply, offer for supply, store, transport, or cause the transportation of any gasoline represented as reformulated and intended for sale or use in any covered area unless such gasoline meets the applicable standards specified in 40 C.F.R. § 80.41. This law also subjects violators to a maximum civil penalty of \$25,000 per day for each violation in addition to recovery of the amount of the economic benefit or savings resulting from the violation.

As a result of the inspection, the U.S. Environmental Protection Agency ("EPA") has determined that gasoline, represented to be reformulated and intended for sale or use at Baja Shell, which is located in a reformulated gasoline covered area, was manufactured and sold or distributed, offered for sale



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or distribution, dispensed, supplied, offered for supply, stored, transported, or caused to be transported in violation of 40 C.F.R. § 80.78(a) in that conventional gasoline was being dispensed in violation of 40 C.F.R. § 80.78(a)(10). As the distributor who delivered the conventional gasoline to the facility where the violation was found, Western States Petroleum, Inc., is liable for the violation of 40 CFR § 80.78(a)(1) pursuant to 40 CFR § 80.79(a)(1).

Sections 211 and 205 of the Act, 42 U.S.C. §§ 7545 and 7524, authorize the Administrator of EPA to assess a civil penalty of up to \$25,000 for every day of each such violation and the economic benefit or savings resulting from the violation. In determining the appropriate penalty for the noticed violation, we consider the gravity of the violation, the economic benefit or savings (if any) resulting from the violation, the size of your business, your history of compliance with the Clean Air Act, actions taken by you to remedy the violation and to prevent recurrence of further violations, the effect of the penalty on your ability to continue in business and such other matters as justice may require.

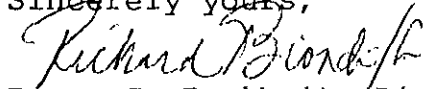
We encourage early settlement of such matters. The settlement process provides substantial flexibility for reducing the proposed penalty, particularly if the alleged violation is corrected promptly. If we cannot settle this matter promptly, we reserve the right to file an administrative complaint or refer this matter to the United States Department of Justice with a recommendation to file a civil complaint in federal district court. Rather than initiating litigation, we propose a civil penalty for the violation alleged in this Notice of Violation of Three Thousand Six Hundred Forty Five Dollars (\$3,645).

The EPA attorney designated below has been assigned to this case. Please contact this attorney regarding the Notice of Violation.

Judith E. Graham, Attorney
U.S. Environmental Protection Agency
Mobile Source Enforcement Branch
Air Enforcement Division
12345 W. Alameda Parkway
Suite 214
Denver, CO 80228
Phone Number: (303) 969-6476

Please let me once again emphasize that while we take our obligation to enforce these requirements seriously, we will make every effort to reach an equitable settlement in this matter.

Sincerely yours,

A handwritten signature in cursive script, appearing to read "Richard Biondi".

Bruce C. Buckheit, Director

Air Enforcement Division

Office of Enforcement and Compliance Assurance